

Documentation (1999-2000); (Reference B) Anderson, Tim, Head to Head Talking XML – BizTalk Server 2000 (2001); and (Reference C) BizTalk Server 2000 An Overview (2001).

Claim 1 requires retrying failed-to-execute tasks when the cause of the failure is a transient error. Similar features are also recited in other pending claims. As described in the previous response dated August 4, 2005, an example of a transient error is described in page 15, lines 4-16 of the present application. This feature eliminates the need to perform “retry” if the failure was not due to a transient error. (See, e.g., page 15, lines 17-22.) In the Office Action, the Examiner alleged that the features of “retry” are “non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements.” (Page 16 of the Office Action.) The Examiner then further alleged: (a) the “recited method steps would be performed the same regardless of the intended field of use for the work system or the specific type of error for which the fault-tolerant transactional system has been developed to overcome”; and (b) “the structural elements remain the same regardless of the intended field of use or specific error type.” (Pages 16-17 of the Office Action.)

With respect to point (a) above, claim 34, which is a method claim, requires “(3) retrying, for a predetermined number of times, to execute one of the plurality of manufacturing tasks when the one of the plurality of manufacturing tasks failed to be executed due to a transient error.” This step explicitly requires that, when tasks fail due to a transient error, the failed tasks be retried for a predetermined number of times. However, when tasks fail not due to a transient error (i.e., a permanent error), the claim does not require retrying. In other words, when tasks fail due to a transient error, the failed tasks can be restarted after the condition that caused the transient error no longer exists. However, when the cause of failure is a permanent error, a simple retry would be wasting of resources because the condition that caused the permanent error

would continue to exist. Hence, a method that retries failed tasks without considering the cause of the failure is less efficient and wastes resources compared with the present invention. Hence, step (3) recited above is a functional feature that must be considered in assessing patentability of claim 34 and all other method claims that recite similar features.

With respect to point (b) above, claim 1, which is a system claim, requires that “the workflow software component configured to execute a plurality of manufacturing tasks to be performed automatically and configured to retry, for a predetermined number of times, to execute one of the plurality of manufacturing tasks when said one of the plurality of manufacturing tasks fails to be executed due to a transient error.” A workflow software component (e.g., a computer program) having the requirement of retrying “for a predetermined number of times, to execute one of the plurality of manufacturing tasks when said one of the plurality of manufacturing tasks fails to be executed due to a transient error” would have one set of computer instructions (e.g., retry when the failure is caused by a transient error). Whereas, a software component that retries whenever tasks fail would have a different set of instructions (e.g., retry without having to determine whether the failure is caused by a transient error). Contrary to Examiner’s allegation, a workflow software component with the features required by claim 1 would be structurally different (e.g., include a different set of instructions) from a software component that retries regardless of the cause of the failure. Hence, the requirement of retrying “for a predetermined number of times, to execute one of the plurality of manufacturing tasks when said one of the plurality of manufacturing tasks fails to be executed due to a transient error” is not descriptive material and it must be considered in assessing patentability of claim 1 and all other system (and medium) claims that recite similar features.

Furthermore, MPEP §2106 cited by the Examiner specifically enumerates “[c]ommon situations involving nonfunctional descriptive material” as:

A. “a computer-readable storage medium that differs from the prior art solely with respect to nonfunctional descriptive material, such as music or a literary work, encoded in the medium”

B. “a computer that differs from the prior art solely with respect to nonfunctional descriptive material that cannot alter how the machine functions (i.e., the descriptive material that does not reconfigure the computer)” or

C. “a process that differs from the prior art only with respect to nonfunctional descriptive material that cannot alter how the process steps are to be performed to achieve the utility of the invention.” (The emphasis in the original.)

With respect to category A, the claims of the present application do not recite music or a literary work. Hence, category A clearly does not apply to the claims of the present application.

With respect to category B, as explained above, the system claims of the present application do alter “how the machine functions.” Hence, category B also does not apply to the claims of the present application.

With respect to category C, also as explained above, the method claims of the present application clearly alter “how the process steps are to be performed.” Hence, category C also does not apply to the claims to the present application.

Therefore, the Examiner cannot ignore patentably distinguishable features of the pending claims of the present invention. In the Office Action, the Examiner admitted that “BTS [BizTalk

Server] does not express ... the type of error/faults handled by the workflow system.” (Page 16 of the Office Action.) Hence, claims 1-16, 18-28, and 30-50 are believed to be allowable over the cited prior art.

The Examiner also rejected claims 17 and 29 under 35 U.S.C. §103(a) as being unpatentable over BTS in view of USPN 6,470,227 issued to Rangachari et al. (the “ ‘227 patent”).

This rejection is respectfully traversed because the ‘227 patent also fails to teach or suggest the feature relating to “retry” for failures due to a transient error. Hence, the cited references, even if combined as suggested by the Examiner, do not teach or suggest each and every recited feature of claims 17 and 19.

Applicants respectfully submit that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicants do not concede that the cited prior art shows any of the elements recited in the claims. However, Applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees, which may be required for this Amendment, or credit any overpayment to deposit account no. 08-0219.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to deposit account no. 08-0219.

Respectfully submitted,

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